

**Assembly of States Parties**

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Report of the Assembly of States to the Rome Statute of the International Criminal Court

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A. Introduction

1. In accordance with the decision taken at its 3rd meeting, on 9 September 2002,¹ the Assembly of States Parties to the Rome Statute of the International Criminal Court held its second session at United Nations Headquarters from 8 to 12 September 2003.
2. Pursuant to General Assembly resolution 57/23 of 19 November 2002 and in accordance with the Rules of Procedure of the Assembly of States Parties,² the Secretary-General of the United Nations invited all States Parties to the Rome Statute to participate in the session. Other States that had signed the Statute or the Final Act were also invited to participate in the session as observers.
3. Pursuant to the same General Assembly resolution and in accordance with rule 92 of the Rules of Procedure of the Assembly of States Parties, also invited as observers to the session were representatives of intergovernmental organizations and other entities that had received a standing invitation from the General Assembly pursuant to its relevant resolutions³ as well as representatives of regional intergovernmental organizations and other international bodies invited to the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court (Rome, June/July 1998), accredited to the Preparatory Commission for the International Criminal Court or invited by the Assembly of States Parties.
4. Furthermore, in accordance with rule 93 of the Rules of Procedure, non-governmental organizations invited to the Rome Conference, registered to the Preparatory Commission for the International Criminal Court or in consultative status with the Economic and Social Council of the United Nations whose activities were relevant to the activities of the Court or that had been invited by the Assembly of States Parties attended and participated in the work of the Assembly.



5. In accordance with rule 94 of the Rules of Procedure, the following States were invited to be present during the work of the Assembly of States Parties: Bhutan, Cook Islands, Democratic People's Republic of Korea, Equatorial Guinea, Grenada, Kiribati, Lao People's Democratic Republic, Lebanon, Maldives, Mauritania, Micronesia (Federated States of), Myanmar, Niue, Palau, Papua New Guinea, Rwanda, Saint Kitts and Nevis, Somalia, Suriname, Swaziland, Tonga, Turkmenistan, Tuvalu and Vanuatu.

6. The list of delegations to the session is contained in document ICC-ASP/2/INF/___.

7. The session was opened by the President of the Assembly of States Parties, H.R.H. Prince Zeid Ra'ad Zeid Al-Hussein (Jordan).

8. The Bureau of the Assembly that had been elected at the first session, for a term of three years, continued during the second session, as follows:

President:

H.R.H. Prince Zeid Ra'ad Zeid Al-Hussein (Jordan)

Vice-Presidents:

Mr. Allieu Ibrahim Kanu (Sierra Leone)

Mr. Felipe Paolillo (Uruguay)

Rapporteur:

Mr. Alexander Marschik (Austria)

Other members of the Bureau:

Austria, Croatia, Cyprus, Democratic Republic of the Congo, Ecuador, Gabon, Malta, Mongolia, Namibia, Netherlands, New Zealand, Nigeria, Norway, Peru, Romania, Serbia and Montenegro, Trinidad and Tobago, United Kingdom of Great Britain and Northern Ireland

9. At its 1st meeting, on 8 September 2003, in accordance with rule 25 of the Rules of Procedure, the following States were appointed to serve on the Credentials Committee: Benin, Fiji, France, Honduras, Ireland, Paraguay, Serbia and Montenegro, Slovenia and Uganda. The Assembly considered it useful for purposes of continuity to appoint to the Credentials Committee the same States serving in that capacity during the term of office of the current Bureau of the Assembly of States Parties.

10. The Director of the Codification Division of the Office of Legal Affairs of the United Nations Secretariat, Mr. Václav Mikulka, acted as Secretary of the Assembly. The Codification Division provided the substantive servicing for the Assembly.

11. At its 1st meeting, the Assembly observed one minute of silence dedicated to prayer or meditation in accordance with rule 43 of the Rules of Procedure, as well as to the memory of the United Nations staff members killed as a result of the bombing of the Headquarters of the United Nations in Baghdad on 19 August 2003 as well as the many innocent victims of various recent indiscriminate attacks.

[to be completed]

12. At the same meeting, the Assembly adopted the following agenda (ICC-ASP/2/1):

1. Opening of the session by the President.

2. Silent prayer or meditation.
 3. Adoption of the agenda.
 4. Credentials of representatives of States Parties at the second session:
 - (a) Appointment of the Credentials Committee;
 - (b) Report of the Credentials Committee.
 5. Organization of work.
 6. Report on the activities of the Bureau.
 7. Report on the activities of the Court.
 8. Establishment of the secretariat of the Assembly of States Parties.
 9. Consideration and adoption of the budget for the second financial year.
 10. Adoption of the scale of assessments.
 11. Consideration of audit reports.
 12. Election of the Deputy Prosecutor.
 13. Election of members of the Committee on Budget and Finance.
 14. Election of members of the Board of Directors of the Trust Fund for the benefit of victims of crimes within the jurisdiction of the Court, and of the families of such victims.
 15. Report of the Special Working Group on the Crime of Aggression.
 16. Establishment of an international criminal bar.
 17. Decisions concerning the next meeting, including dates and venue.
 18. Decisions concerning the next meeting of the Committee on Budget and Finance, including dates and venue.
 19. Other matters.
13. The annotated list of items included in the provisional agenda was contained in a note by the Secretariat (document ICC-ASP/2/1/Add.1).
14. Also at the 1st meeting, the Assembly agreed on a programme of work and decided to meet in plenary session as well as in the working group format. The Special Working Group on the Crime of Aggression, established pursuant to Assembly resolution ICC-ASP/1/Res.1 of 9 September 2002, met in accordance with the arrangements reached by the Assembly at the 8th meeting of its first session, on 7 February 2003.⁴ In accordance with paragraph 2 of the above-mentioned resolution, the Special Working Group is open on an equal footing to all States Members of the United Nations or members of the specialized agencies or of the International Atomic Energy Agency. In addition, the Assembly established a Working Group on the Draft Programme Budget for 2004 and a Working Group on the Draft Staff Regulations of the Court.
15. The President, following consultations with the Bureau, appointed Ambassador Christian Wenaweser (Liechtenstein) to chair the Special Working Group on the Crime of Aggression; Mr. Patricio Ruedas (Spain) to chair the Working Group on

the Draft Programme Budget for 2004; and Ms. Gaile Ramoutar (Trinidad and Tobago) to chair the Working Group on the Draft Staff Regulations of the Court.

16. The Assembly also held informal consultations on the establishment of an international criminal bar, coordinated by Mr. Hans Bevers, the focal point of the Bureau on the matter; on the establishment of the Secretariat of the Assembly of States Parties, coordinated by Mr. Alexander Marschik (Austria); and on the term of office of members of the Committee on Budget and Finance, coordinated by Mr. Sivu Maqungo (South Africa).

B. Consideration of issues in the agenda of the Assembly during the second session

1. Credentials of representatives of States Parties at the second session

17. At its 5th meeting, on 12 September 2003, the Assembly
[to be completed]

2. Report on the activities of the Bureau

18. At its 1st meeting, on 8 September 2003, the Assembly took note of the oral report of the President on the activities of the Bureau.
[to be completed]

3. Statements by the President and Prosecutor of the Court, and general and other statements

19. At its 1st meeting, on 8 September 2003, the Assembly heard statements from Judge Philippe Kirsch, President of the Court, and Mr. Luis Moreno Ocampo, Prosecutor of the Court. Statements were also made by the Minister of Justice, Administration and Local Self-Government of Croatia, Ms. Ingrid Anticevic Marinovic, and representatives of the host country, the Netherlands, Italy (on behalf of the European Union, and acceding and associated countries as well as the European Free Trade Association countries, Iceland, Liechtenstein and Norway), members of the European Economic Area, and Peru (on behalf of the Rio Group). At its 2nd meeting, on 9 September, the representatives of Nigeria, South Africa and the Democratic Republic of the Congo made statements.

4. Report on the activities of the Court

20. At its 1st meeting, on 8 September 2003, the Assembly took note of the report of the International Criminal Court to the Assembly, 2003 (ICC-ASP/2/5).

5. Election of the Deputy Prosecutor of the International Criminal Court

21. In a letter dated 11 August 2003 from the Prosecutor of the International Criminal Court to the President of the Assembly of States Parties (ICC-ASP/2/8, annex), the Prosecutor submitted three nominations for election to the post of Deputy Prosecutor, in accordance with paragraph 4 of article 42 of the Rome Statute. In a note by the Secretariat dated 3 September 2003 (ICC-ASP/2/8/Add.1), one of the candidates announced his decision to withdraw his candidature.

22. At its 2nd meeting, on 9 September 2003, the Assembly proceeded to elect the Deputy Prosecutor of the International Criminal Court on the basis of the nominations submitted by the Prosecutor (ICC-ASP/2/8) and the subsequent withdrawal of one candidature (ICC-ASP/2/8/Add.1). Having obtained an absolute majority of the members of the Assembly of States Parties, Mr. Serge Brammertz (Belgium) was elected Deputy Prosecutor of the International Criminal Court.

23. Eighty-seven ballots were cast, of which none were invalid and 87 were valid. The number of States Parties voting was 87; the required absolute majority was 46; and the number of votes obtained by the candidates was as follows: Mr. Serge Brammertz (Belgium), 65, and Mr. Vladimir Tochilovsky (Ukraine), 22.

Term of office of the Deputy Prosecutor and commencement of the term of office

24. Also the 2nd meeting, prior to the election, the Assembly, upon the recommendation of the Bureau, decided that the term of office of the Deputy Prosecutor of the International Criminal Court should be six years and that it should begin to run from 3 November following the date of election.

6. Election of members of the Committee on Budget and Finance

25. At the 10th meeting of its first session, on 21 April 2003, the Assembly, having received no nomination from Eastern European States, decided to defer election of candidates from those States until its second session. The Bureau fixed the period for nomination of candidates to run from 28 April to 21 August 2003 and the Secretariat was requested to issue an official note inviting nominations.

26. At its 1st meeting, on 8 September 2003, the Assembly proceeded to elect the following remaining members of the Committee on Budget and Finance from Eastern European States in accordance with its resolution ICC-ASP/1/Res.5 of 3 September 2002:

Ms. Elena Sopková (Slovakia)

Ms. Inna Steinbuka (Latvia)

27. In accordance with paragraph 11 of resolution ICC-ASP/1/Res.5, the Assembly dispensed with a secret ballot and elected the two members from Eastern European States by acclamation.

[to be completed]

7. Election of members of the Board of Directors of the Victims Trust Fund

28. At the 11th meeting of its first session, on 22 April 2003, the Assembly decided to open the period for nomination of members as Directors of the Trust Fund for the benefit of victims of crimes within the jurisdiction of the Court, and of the families of such victims, to run from 28 April to 21 August 2003, and the Secretariat was requested to issue an official note inviting nominations.

29. At its 1st meeting, on 8 September 2003, since an insufficient number of nominations had been received at the close of the nomination period, the Bureau reopened the nomination period to run from 8 to 10 September 2003 and it was agreed that the election would be held on 12 September 2003.

[to be completed]

8. Special Working Group on the Crime of Aggression

[to be completed]

9. Establishment of the Secretariat of the Assembly of States Parties

[to be completed]

10. Consideration and adoption of the budget for the second financial year

30. The Assembly, through its Working Group, considered the programme budget for 2004 on the basis of the draft proposal submitted by the Registrar, the report of the Committee on Budget and Finance, the initial report of the External Auditor and the preliminary comments made by the Court on the External Auditor's report.

[to be completed]

11. Consideration of audit reports

[to be completed]

12. Establishment of an international criminal bar

[to be completed]

13. Other matters**(a) Conditions of service and compensation of judges of the International Criminal Court**

31. At its 4th meeting, on 11 September 2003, the Assembly decided to align the various language versions of the Conditions of service and compensation of the judges of the International Criminal Court with the negotiated English text. The Conditions of service and compensation of judges remain applicable unless the Assembly decides otherwise. The Secretariat was requested to reissue the conditions in the preparation of the report of the Assembly.

(b) Status of contributions to the budget of the International Criminal Court for the first financial period and the second financial year

[to be completed]

(c) Agreement on the Privileges and Immunities of the International Criminal Court

32. At the 4th meeting, on 11 September 2003, the President appealed to States that had not yet done so to consider becoming parties to the Agreement on the Privileges and Immunities of the International Criminal Court so as to facilitate its early entry into force.

(d) Trust fund for the participation of least developed countries

[to be completed]

(e) Recognition of the coordinating and facilitating role of the NGO Coalition for the International Criminal Court

33. At its 4th meeting, on 11 September 2003, the Assembly adopted resolution ICC-ASP/2/L.2 on the recognition of the coordinating and facilitating role of the NGO Coalition for the International Criminal Court.

14. Role of the United Nations in the establishment of the International Criminal Court

[to be completed]

Notes

¹ *Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, First session, New York, 3-10 September 2002* (United Nations publication, Sales No. E.03.V.2 and corrigendum), part I, para. 39.

² *Ibid.*, part II.C.

³ General Assembly resolutions 253 (III), 477 (V), 2011 (XX), 3208 (XXIX), 3237 (XXIX), 3369 (XXX), 31/3, 33/18, 35/2, 35/3, 36/4, 42/10, 43/6, 44/6, 45/6, 46/8, 47/4, 48/2, 48/3, 48/4, 48/5, 48/237, 48/265, 49/1, 49/2, 50/2, 51/1, 51/6, 51/204, 52/6, 53/5, 53/6, 53/216, 54/5, 54/10, 54/195, 55/160, 55/161, 56/90, 56/91, 56/92, 57/29, 57/30, 57/31 and 57/32 and Assembly decision 56/475.

⁴ *Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, First session (First and second resumptions), New York, 3-7 February and 21-23 April 2003* (United Nations publication, Sales No. E.03.V.8), part I, paras. 38 and 39.